

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES

-against-

MEMORANDUM AND ORDER

ERNEST BROWN

Criminal Docket No.
CR-03-204(DGT)

Defendant.

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Trager, J:

On February 27, 2006, the Court of Appeals for the Second Circuit granted defendant Ernest Brown's ("Brown") motion to recall the mandate, reinstate his appeal and remand for sentencing reconsideration pursuant to United States v. Crosby, 397 F.3d 103 (2d Cir. 2005).

In a letter dated March 7, 2006, Brown requested I reconsider and reduce his forty-six-month sentence and three-year term of supervised release to a term of time-served followed by a two-year term of supervised release. Despite the excellent submission by Brown's counsel, I still find that the forty-six-month sentence was reasonable in light of all the factors in 18 U.S.C. § 3553 (a).

As for the requested reduction in the term of supervise release, it would be inappropriate to reduce the term until the

progress Brown makes following his release from prison can be evaluated. Should Brown show satisfactory adjustment, I would be willing to entertain an application for reduction if the probation department should recommend that course.

Dated: Brooklyn, New York
May 16, 2006

SO ORDERED:

/s/

David G. Trager
United States District Judge